



Memorandum

Development Services

DATE: July 26, 2001

TO: Mayor and City Council

FROM: Dave Fackler, Development Services Manager
Fred Brittingham, Planning Director
Bonnie Richardson, Neighborhood Planning Manager

SUBJECT: ORDINANCE REWRITE UPDATE

Two members of the Citizens Advisory Committee, staff and the consultant (OTAK) will be at the IRS to update the Council on the status of our ordinance rewrite and ask for direction on one issue. The attached executive summary from OTAK details the public input efforts to date and the results and includes the survey questions used to initiate input. We have been very happy with the high level of interest and involvement in the program. The consultant refers to the "toolbox" that has been started as a way to summarize like comments (from citizens and staff) and suggest concepts that could address them as they draft the ordinance. As we finalize the information gathering for the first phase of the rewrite, the toolbox will grow. The toolbox idea has been well received and has worked as a focus point for the next phase.

We are asking for direction on one point. Through the interview and focus group process, there have been requests to assure that the sign section of the ordinance is included in our review. Initially, the Council reviewed the sign ordinance at a work study session in February. The discussion was focused on some issues that had recently come before Council on appeal. Several of the Council expressed that they were comfortable with all or most of the current standards but that there were some areas that they would like to see studied. There was also interest in scheduling a joint meeting with the Design Review Board to discuss signs and other items.

At this time, staff would like to clarify that the Council is comfortable with including the entire sign section in the rewrite study. Staff recommends that we do so because changes to other standards can affect signs. For example; some areas of the city are transitioning from auto to pedestrian oriented growth and the businesses in these areas may have different signage needs than the current standards allow. Also, technology and marketing have changed. As we determine what, if any, changes to the sign section are proposed, they would be discussed in the Phase Two public review sessions. After we gather that input, we could schedule a meeting between the Council and Design Review Board to discuss the proposal.

City of Tempe Regulatory Review

Executive Summary

Overall Goal

The overall goal of Tempe's Regulatory Review Project is to construct development regulations and procedures in order to implement the vision of Tempe's General Plan and to¹:

- ❖ Promote efficient use of public and private resources,
- ❖ Provide timely citizen involvement in the development review process,
- ❖ Ensure proper and fair application of development regulations,
- ❖ Make the regulations understandable and easy to use, and
- ❖ Encourage the application of smart growth principles.

This project is being guided by a seventeen-member Citizen Advisory Committee (CAC) and the Planning and Zoning Commission. The CAC and Planning and Zoning Commission have adopted a working definition of "smart growth" that means development that uses land efficiently (i.e., through infill and redevelopment), provides transportation options, mixes compatible land uses, conserves natural resources, encourages sustainable building practices, and is pedestrian-oriented in its design.

The City of Tempe commissioned Otak, Inc. in February 2001 to review and potentially rewrite the City's development regulations. City staff and Otak facilitated an outreach process with approximately one hundred community stakeholders and city staff from eleven departments and divisions as part of a comprehensive regulatory "audit."

The *Tempe Regulatory Audit and Toolbox Report* summarizes the consultant's findings from the stakeholder outreach and regulatory review. The report provides an evaluation of Tempe's existing land use and development regulations and an outline of suggested ordinance concepts and changes. Together, the audit and toolbox are meant to provide a starting point for discussion of possible regulatory amendments.

¹ The Mission, Goals, and Objectives are a consensus "working document" based on input from the City Staff Advisory Committee, Regulatory Review Citizens Advisory Committee, and Planning and Zoning Commission. For the complete Mission, Goals, and Objectives text, please refer to the Regulatory Audit and Toolbox Report.

Regulations Reviewed

Otak reviewed the following policies and regulations:

- Zoning Ordinance, No. 808,
- Design Review Ordinance, No. 86.52,
- Dark Sky Ordinance, No. 90.02,
- Subdivision Ordinance, No. 99.21,
- Crime Prevention Environmental Design Guidelines,
- Multifamily Development Design Guidelines,
- Engineering Design Criteria, and
- City of Tempe Amendments to Uniform Building Code.

Otak also reviewed Tempe's General Plan 2020, adopted neighborhood strategic area plans, administrative rulings/interpretations, Planning and Zoning/City Council Public Information Sheets, and comments from city staff.

Citizen and Stakeholder Outreach

During March through June 2001, over one hundred citizens and city staff participated in a review of Tempe's development process and regulations. As part of this extensive outreach effort, Otak, Inc. interviewed the members of the Regulatory Review Citizens Advisory Committee (CAC), and city employees of the Staff Advisory Committee (SAC) representing 11 city departments and divisions, and conducted five focus groups with constituents from Tempe's business community and neighborhoods.² The consultant also met with the Design Review Board and Board of Adjustment to receive input on the draft toolbox.

More public input was provided through a citizen questionnaire on the city's web site, and neighborhood photo surveys completed by neighborhood representatives. We have been impressed by the willingness of all parties to put community interests above individual interests. The results are encouraging.

The following is a list of participants in the Regulatory Review project:

Citizen Advisory Committee (CAC)

Chris Aulerich	John Benton
Jeff Cutberth	Michael DiDomenico
Cheri Edington	Grady Gammage
Kathryn Heffernan	John Kane
Todd Marshall	Mary Ann Miller (began in June 2001)
Rich Nolan	Mike Patten
Darin Sender	Kirby Spitler
Helen Stern	Ruben Valenzuela
Bill Was	

² The stakeholder interviews and focus groups followed a structured questionnaire. See the attached list of questions.

Focus Groups

Design Focus Group – 04/23/01

Michael Wilson Kelly
Jim Roberts
Jack Gilmore
Paul Grocoff
Brent Kendle
Drew Aquilina
Kevin Moore

Downtown Stakeholders – 04/23/01

Stu Siefer
Rod Keeling
Sid Joseph

Developer Focus Group – 04/24/01

Daniel Tilton
Mike Burke
Spike Lawrence

Patrick Anderson
Ed Forest

Building Codes & Engineering Focus Group – 04/25/01

George Krall
Suzanne Gilstrap
Jim Lemon
Maeve Johnson

Rex Hedges
Ken Zell
Shirley Wood
Karl Fox

Neighborhood Focus Group – 04/25/01

Dan Durrenberger
Jenny Lucier
Vic Linoff*
Jim Lemmon*
Patty Brenner*

Gretchen Reinhardt*
Kelly Mattice
Betty LaForce*
Johnny Basha
Roy Hoyt*

**also participated in neighborhood photograph survey.*

Design Review Board – 06/27/01

Bill Regner
Pam Goronkin
Ruben Valenzuela
Stanley Nicpon

Jenifer Corey
Brooke Bogart
Kiko Smith
Bill Kersbergen

Board of Adjustment – 06/27/01

William Cleaveland
Robert Hunt
Marc Jung
Tracy Dennis

Cheri Edington
Martin Pasqualetti
Darrin Sender

City Department Interviews

Otak interviewed 40 staff from the following City Departments and Divisions: Community Service, Parks and Recreation, Fire, City Attorney, Transit, CPTED, Engineering, Rio Salado Planning, Building Safety, Code Compliance, Planning, Redevelopment, and Transportation between the dates of April 23 and April 26, 2001.

Themes From Interviews, Discussions, and Focus Groups

Discussions and comments on Tempe's development regulations have been consolidated into the four "themes" described below. This summary is based on a summation of interviews, discussions, focus groups, community interviews, and the April 2001 Development Services Department study of use permits and variances.

Theme 1: The Rewrite is Needed

There is consensus that Tempe in 2001 is a much different place than the Tempe of 30 years ago. Once a quiet university town surrounded by farms, Tempe is now a diverse city with a vibrant downtown and a mix of urban and suburban neighborhoods. The City of Tempe is now surrounded by other municipalities and is mostly built-out. All development is on infill lots or redevelopment of existing land uses – every development is in someone's backyard.

This dynamic has strained the city's development process. The ordinances that served the community well during the past 30 years are now showing signs of wear and need replacement. The stakeholders interviewed for this project repeatedly referred to inflexible and out-of-date development standards such as uniform building heights, density, parking, landscaping, screening, and setbacks as discouraging creative developments. The need for multiple variances or discretionary approvals (e.g., Use Permits and Planned Area Developments) was cited as a disincentive to infill and redevelopment, particularly where higher density or mixed-use development is proposed.

There is general agreement among neighborhood representatives, developers, designers, city staff, and other stakeholders that revisions to the zoning ordinance are needed to implement the vision of the General Plan, particularly where more intensive development, redevelopment, or a mix of land uses is planned. More flexibility is needed in the standards. There is consensus that all ordinances should provide clear and objective standards with sufficient flexibility so that variances are used as a last resort only.³

Theme 2: Tempe's Contextual Differences – One Size Does Not Fit All

The City of Tempe Zoning Ordinance (No. 808) is based on a 30-year-old framework that has been frequently amended. The original ordinance was adopted during a period of extensive and rapid community growth. In response to this growth, the City adopted a zoning map with single-purpose zoning (e.g., single family residential, multiple family residential, general commercial, industrial, etc.) and uniform development and design standards.

Understandably, city policymakers wanted to ensure consistent application of standards and compatible development patterns across a large area. For example, the zoning map envisions automobile-oriented shopping centers at one-mile intervals along most arterial streets, with large residential areas behind them.

³ According to a study of use permits and variances prepared by the Development Services Department (April 2001), 3,075 use permits and variances were requested between December 1993 to January 2000.

Industry and employment campuses are located away from the neighborhoods primarily along major thoroughfares.

This framework succeeded in promoting uniformity and separation of land uses, but the ordinance was not designed to address the fine-grain qualities that make each of Tempe's neighborhoods and districts unique. Today, the zoning ordinance and related development standards often stand in the way of projects that can build community and promote livability in the neighborhoods. For example, the current regulations make it difficult to build some types housing, such as accessory dwellings, townhomes, zero-lot line and courtyard homes, and live-work units.

Many of the people we talked to expressed strongly the need to retool the zoning ordinance to better address neighborhood design "context" and site-specific solutions. It is timely to do so, as several neighborhood planning and redevelopment initiatives are underway. Neighborhood representatives, developers, designers, city staff, and other stakeholders generally agree that:

- Contextual differences exist between the different areas of Tempe – Downtown, Rio Salado, and Northwest Tempe neighborhoods have different character and needs than Apache Boulevard, and neighborhoods in North and South Tempe. Contextually appropriate development and design standards are needed for each of these areas.
- Context means both existing and optimal characteristics of land use, development intensity (height, bulk, density, etc.), transportation modes, parking demand, architecture, natural topography, existing landscape, and other elements related to the site, building, and surrounding uses.
- New regulatory tools and incentives could help in guiding development to appropriate locations. For example, new (or replacement) zoning should promote compact, mixed-use development in the downtown, and in key redevelopment and transit station areas identified by the City in specific area plans or redevelopment plans.
- Ordinances should allow for greater housing options. For example, existing regulations do not allow accessory dwellings, zero-lot line developments, single family attached (townhomes), small lot/courtyard housing, live/work or mixed-use residential development in most zones without approval of a Planned Area Development. These "infill" housing types may be more appropriate than high-density apartments for some neighborhood infill situations.
- Ordinances should recognize historic character and provide flexibility to maintain and enhance historic architecture, where applicable.

Theme 3: Modernize the Standards and Make Them Easier to Use

An efficient and effective development review process relies upon development standards and procedures that implement public policy, and are logical, clear, internally consistent, and sufficiently flexible without being subject to misuse. Tempe's current ordinance structure does not meet these criteria in certain areas because the regulations frequently conflict with one another, many regulations are not codified (e.g., Zoning Administrator and Hearings Officer Rulings), and some regulations are inconsistent with the vision of the General Plan. Community stakeholders and City staff repeatedly referred to the problem of being "surprised" by City code interpretations and review procedures. We note the following general suggestions made by staff and citizens:

- The intent of each ordinance should be described, and basic requirements made clear, but standards should not be overly prescriptive. Design intent should be described with text and illustrations, while providing options and incentives for superior designs.
- The regulations should balance flexibility with certainty. Developers want land use and design flexibility, with certainty on the time it takes to get to a “yes” or “no” answer, and required modifications, on project proposals. Residents generally want to have meaningful input into the development and design review process, and they want certainty as to what can and cannot be developed next door to them.
- Citizen input regarding land use and design is needed earlier in the development process to aid both developers and neighborhoods in finding mutually acceptable solutions.
- Evaluate, and, if necessary, modify or codify current boilerplate conditions used in project review.
- Annotate the land use code with reference to rules, formal code interpretations.

Community stakeholders and City staff expressed the most concern with the following standards:

Crime Prevention Through Environmental Design (CPTED)

Tempe’s CPTED program is recognized as a national model. However, as we heard from staff and many practitioners, the CPTED standards and review process can be improved. The current standards often conflict with other regulations and staff recommendations for street improvements, access, building orientation, parking, landscaping, screening, lighting, and signs. A lot has been learned since the CPTED ordinance has been in effect. CPTED staff indicated they are aware of conflicts with the existing regulations and review procedures. Staff recognizes that changes to the current ordinance are needed and want to work toward creating an ordinance that is user-friendly.

Parking

Perceived parking needs vary geographically, and depend on who one talks to in Tempe. Some said there is not enough parking in the downtown; while others said there is too much parking downtown. The regulatory rewrite will need to address the following general trends and concerns expressed by stakeholders:

- As land values increase, there will be more pressure to reduce or waive off-street parking requirements in the downtown.
- There is interest in retaining the parking-by-demand and shared parking models, but a database is needed for tracking shared parking agreements.
- There is interest in expanding the shared parking and parking-by-demand model to areas outside downtown and making the program more inclusive (i.e., make smaller uses eligible).
- There is interest in providing options and incentives for reducing the amount of surface parking that is built, or building structured parking as an alternative (e.g., where transit-oriented development is feasible).
- Downtown Tempe and areas around planned transit stations are not appropriate for large surface parking lots; there is interest in planning these areas for future intensification.

Stormwater Management

Developers, consulting engineers, and design practitioners consistently cited problems in complying with the City's stormwater retention standards on infill development sites (i.e., due to the area required for these facilities). The current standard (retain runoff from the 100-year, one-hour storm) is required in order to forgo significant improvements to the storm drain system. Staff has not ruled out the possibility of making necessary storm drain improvements in the future or starting to allow underground retention facilities so that new development and redevelopment can use land more efficiently, however, maintenance and other issues still need to be resolved. A key issue is how to fund regional storm water facilities. One idea is to create local improvement districts through major new developments. Another issue is the location and design of surface water facilities when required. The current practice of locating ponds adjacent to the sidewalk can create a barrier for pedestrians and discourage designs that orient buildings to the street. Stakeholders suggested allowing steeper side slopes on ponds (e.g., rock retaining wall versus 4:1 side slope) or underground vaults to conserve land.

Design Review Process and Design Criteria

The Design Focus Group concluded that Design Review Staff and the Design Review Board rarely share the same vision. While differences in perspective are important to a healthy debate over design, the lack of clear and objective standards in the code puts an unnecessary burden on everyone – staff, applicants, decisionmakers, and neighborhoods.

There is a need for balance between specificity and flexibility in design criteria. It was stated that the existing design review process is subjective, does not inspire creativity, and disregards the design context of Tempe's neighborhoods and districts. For example, the multiple family design guidelines apply to all multifamily development and do not represent the character of any one neighborhood. The Quality Design Study process was described as a design "cookbook" that does not inspire quality design.

Citizens, developers, architects, planning staff, neighborhood focus groups and redevelopment staff indicated they want ordinances that articulate a vision and maintain Tempe's uniqueness. They suggested that the ordinances should also differentiate between large and small projects. For example, the same Design Review criteria that apply to building signs may not be appropriate for high-rise buildings. For the regulatory rewrite to be a success, it will have to update and integrate a multitude of design criteria while providing a more effective review and decision process.

Theme 4: Efficiency in the Development Review Process

It was often mentioned that time is money. The adage is especially true when processing a development application through a local jurisdiction's permit process. Tempe is no exception. A fast-paced society frequently measures the quality of service by how long it takes to get something accomplished. This demand can be particularly challenging for the community volunteers who serve on boards and commissions as part of the development review process. As they are keenly aware, expediency must be balanced with thoughtful consideration of community values and careful application of public policies. We received many comments and suggestions on how to improve Tempe's development review procedures and related administrative functions. Key suggestions include:

- A formal pre-application process in addition to the voluntary "Friday mark-up sessions."
- Provide development review procedures that match the type of approval being sought – e.g., ministerial (over-the-counter), administrative (staff review and decision with public notice), quasi-judicial with hearing, and legislative decisions – may be helpful.
- Some suggested making developer-citizen meetings an integral part of the application and development review process. Neighborhood contact through notification and meetings held prior to submitting an application can help clarify proposed plans, allow for meaningful neighborhood input, and reduce delays during the review and hearings process.
- There is a need to separate the entitlement process from the plan review and permit process. The current system was described as inefficient and arbitrary at times, because it is prone to "last minute" changes to site layout and building design during the permit process. There is a need to better define the "end of the entitlement process" versus the "beginning of engineering plan and building permit reviews."

The Audit and Toolbox Report also lists many other suggestions related to the organization and administration of development services.

Sample Questionnaire

- 1) Please describe your experience with neighborhood planning and development issues in Tempe.
- 2) The City of Tempe is mostly built-out. Nearly all of the future development will be on infill lots or redevelopment of existing land uses. In this context, what do you see as the key issues and needs that should be addressed in constructing new development regulations?
- 3) The regulatory rewrite project will examine every aspect of Tempe's development approvals process: land use, development and design standards, and procedures for reviewing and approving development (including code enforcement). From your perspective, what will make this effort a success?
- 4) One of the objectives of this project is to construct regulations that balance *flexibility* with *certainty*. The City is interested in regulations that clearly and consistently describe what is expected of development, provide certainty to neighborhoods, and provide options and incentives for plans that go beyond the minimum requirements and improve livability (i.e., rather than a one-size-fits-all approach).

How well are the City's regulations working now to promote certainty for neighborhoods? On a scale of 1-5, with 1 being the least certain (lots of surprises with development) to 5 being most certain (few surprises with development), where would you rank the City? Why?

- 5) How can we best work with you in this process? Do you have any other comments?

Thank you for your time! For further information, you can contact ____.